

## **DECISION MEMORANDUM**

**TO: COMMISSIONER KEMPTON  
COMMISSIONER SMITH  
COMMISSIONER REDFORD  
COMMISSION SECRETARY  
COMMISSION STAFF**

**FROM: KRISTINE SASSER  
DEPUTY ATTORNEY GENERAL**

**DATE: NOVEMBER 4, 2010**

**SUBJECT: IDAHO POWER'S APPLICATION FOR APPROVAL OF A FIRM  
ENERGY SALES AGREEMENT WITH AGPOWER, CASE NO. IPC-E-  
10-26**

On October 20, 2010, Idaho Power Company filed an Application with the Commission requesting approval of a 20-year Firm Energy Sales Agreement (the "Agreement") between Idaho Power and AgPower Jerome, LLC (AgPower) dated October 13, 2010. The Application states that AgPower would sell and Idaho Power would purchase electric energy generated by the Double A Digester Project (the "Facility") located in Lincoln County, Idaho.

### **THE AGREEMENT**

The Agreement is for a term of 20 years and contains the non-levelized published avoided cost rates established by the Commission in Order No. 30744 for energy deliveries of less than 10 average megawatts ("aMW"). The nameplate rating of the Facility will be 1.6 MW. Idaho Power warrants that the Agreement comports with the terms and conditions of the various Commission Orders applicable to PURPA agreements (Order Nos. 30415, 30488, 30738, and 30744). Application at 2.

Although the Agreement is dated October 13, 2010, Idaho Power submits that AgPower should be entitled to the avoided cost rates set out in Order No. 30744 (rates superseded on March 16, 2010, by Order No. 31025). Idaho Power asserts that, but for the disagreement as to the damage and security provisions, the Agreement would have been signed by both parties prior to March 16, 2010. The Agreement, as submitted, contains the most recent terms and conditions, including liquidated damages and security provisions. As such, Idaho

Power maintains that this Agreement is similarly situated to other power purchase agreements approved by this Commission that contain grandfathered avoided cost rates.

Idaho Power asserts that AgPower is current in all of its interconnection study payments. AgPower selected a Scheduled Operation Date of January 1, 2012, for its Facility. By its own terms, the Agreement will not become effective until the Commission has approved all of the Agreement's terms and conditions and declares that all payments made by Idaho Power to AgPower for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes. Agreement ¶ 21.1.

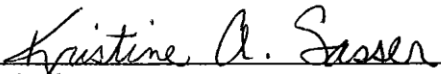
Idaho Power requests that its Application be processed by Modified Procedure pursuant to Commission Rules of Procedure 201-204. IDAPA 31.01.01.201-.204.

#### **STAFF RECOMMENDATION**

Staff recommends that the case be processed by Modified Procedure with comments due no later than December 8, 2010.

#### **COMMISSION DECISION**

Does the Commission wish to process this case under Modified Procedure with comments due no later than December 8, 2010?

  
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Kristine A. Sasser  
Deputy Attorney General

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